

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NUVO NY LLC,

Plaintiff,

-v-

HEALTHLINE MEDIA, LLC,

Defendant.

CIVIL ACTION NO. 23 Civ. 1485 (LAK) (SLC)

**ORDER**

**SARAH L. CAVE**, United States Magistrate Judge.

Yesterday, November 15, 2023, Plaintiff's counsel filed a "Notice of Voluntary Dismissal Without Prejudice" in this case purporting to voluntarily dismiss its claims against Defendant under Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 26 (the "Notice")). The Notice is deficient for two reasons. First, the Notice states that "Plaintiff LeeSandra Moore . . . hereby voluntarily dismisses this action . . ." (Id.) LeeSandra Moore is not a party to this action. Second, Rule 41(a)(1)(A)(i) permits a party to voluntarily dismiss an action only "before the opposing party serves either an answer or a motion for summary judgment." Defendant answered on March 1, 2023. (ECF No. 8). Rule 41(a)(1)(A)(i) does not permit a party to unilaterally dismiss an action, with or without prejudice, if the opposing party has filed an answer. Accordingly, the Notice is deficient.

By **November 17, 2023**, Plaintiff may refile an application for dismissal of this case without prejudice to the Honorable Lewis A. Kaplan. As it appears that Plaintiff's withdrawal of this case is forthcoming, the initial case management conference scheduled for November 20, 2023 is CANCELLED.

The Clerk of Court is respectfully directed to terminate the November 20, 2023 conference.

Dated: New York, New York  
November 16, 2023

SO ORDERED.



**SARAH L. CAVE**  
United States Magistrate Judge